

## DEPARTMENT OF FOOD AND AGRICULTURE

### INITIAL STATEMENT OF REASONS

**Hearing Date:** No hearing is scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department of Food and Agriculture no later than 15 days prior to the close of the written comment period.

**Subject Matter of Proposed Regulations:** Movement of Swine

**Sections Affected:** Amend the heading of Article 8; repeal sections 795.10, 795.13, 795.14, 795.16, 795.17, 795.19, 795.30, 795.32, 795.33, and 795.50; adopt new Article 8.5 and sections 796, 796.1, 796.2, 796.3, 796.4, 796.5, 796.6, 796.7, 796.8, and 796.9.

#### **Specific Purpose of Each Adoption, Amendment, or Repeal**

Food and Agricultural Code section 9561 authorizes the State Veterinarian of the Department of Food and Agriculture (herein after referred to as "Department") to establish regulations to prevent or eradicate any condition that could cause risk to animals or the health and safety of the citizens of this state. Section 9562 further authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans.

The Department has in place existing disease control regulations for the importation of swine in compliance with sections 9561 and 9562. This proposal makes technical amendments for organizational purposes to these regulations, repeals outdated requirements and replaces them with updated requirements to control the spread of swine brucellosis, pseudorabies, and hog cholera.

Specifically, this proposal amends the heading of Article 8 (Swine Disease Programs) and repeals outdated swine movement and hog cholera requirements from existing sections 795.10, 795.13, 795.14, 795.16, 795.17, 795.19, 795.30, 795.32, 795.33, and 795.50 of Title 3 of the California Code of Regulations.

This proposal also adopts new Article 8.5 (Interstate and Intrastate Movement of Swine) and sections 796, 796.1, 796.2, 796.3, 796.4, 796.5, 796.6, 796.7, 796.8, and 796.9 to be consistent with federal and international laws for animal disease control.

Article 8.5 defines the terms used in the article, describes the general requirements for swine entering and moving within California, including the specifics for obtaining an Interstate Livestock Entry Permit and a Certificate of Veterinary Inspection. The article also specifies swine brucellosis and pseudorabies pre-entry and post-entry testing requirements, requirements for importing swine to a slaughter plant for immediate slaughter, requirements for operating a designated swine feedyard for the prevention of swine brucellosis and pseudorabies, and specifies violations.

## **Factual Basis**

The Department is responsible for promoting and protecting the agricultural industry of California. Further, the Department seeks to enhance, protect and perpetuate the ability of the agricultural industry to produce food and fiber in a way that benefits the general welfare and economy of California, and maintain the economic well-being of agriculturally dependent rural communities in California pursuant to Food and Agricultural Code sections 401 and 401.5.

The Department's Animal Health Branch is the state's organized, professional veterinary medical unit that protects livestock populations, consumers, and California's economy from catastrophic animal diseases and other health or agricultural problems. The Branch addresses diseases and other problems that cannot be successfully controlled on an individual animal or herd basis, but require statewide coordinated resources.

Pursuant to Food and Agricultural Code section 10781, the Department may establish regulations to control or eradicate hog cholera, swine brucellosis, pseudorabies and other swine diseases. Additionally, Food and Agricultural Code sections 9561, 9562, and 9570, authorize the Department to establish requirements for the interstate and intrastate movement of livestock. These requirements are in place to control or eradicate the spread of diseases that could potentially cause a threat to livestock and human health and safety.

Brucellosis is a contagious, costly disease of ruminant animals that can be transmitted to humans. In humans, brucellosis may be confined to a certain area of the body or have serious widespread complications that affect the central nervous system, the spine, and other organs of the body. In livestock, it is one of the most serious diseases causing weight loss, loss of young, infertility, and lameness. The rapidity with which it spreads and the fact that it is transmissible to humans makes it all the more serious.

In November 2003, blood samples from five slaughtered pigs indicated brucellosis infection. Department officials conducted an investigation and traced the animals to a small swine herd in Tulare County. Further testing revealed that the entire herd was infected; subsequently, the herd was destroyed. To reduce the possibility of further spreading disease and to increase disease surveillance, Department officials placed a quarantine on all breeding swine in California requiring a negative brucellosis test for swine destined for shows in California.

In an effort to eradicate swine brucellosis, California is involved in the United States Department of Agriculture's (USDA) Swine Brucellosis Eradication Program. Since 1980, the USDA has declared California a Swine Brucellosis Certified Free State. The rapid depopulation of the infected herd and continued surveillance program has allowed California to maintain the Certified Free Status. However, if a second herd is detected, California may lose the free status. Loss of the free status would require a negative official brucellosis test for ALL breeding swine leaving the state.

Pseudorabies is a disease of swine that can also affect cattle, horses, dogs, cats, sheep, and goats. The disease is caused by pseudorabies virus, an extremely contagious herpes

virus that causes reproductive problems, including abortion, stillbirths, and even occasional death losses in breeding and finishing hogs. Pseudorabies is primarily spread through direct animal-to-animal (or nose-to-nose) contact between an infected and disease shedding pig and a noninfected pig. If present on inanimate objects, such as boots, clothing, feed, trucks, and equipment, the virus can also spread from herd to herd and farm to farm. Pseudorabies can be prevented primarily through good, tight biosecurity, a sound vaccination program, and thorough, meticulous management with disease control and prevention in mind. The virus has never been shown to be contagious to humans.

The USDA declared California a Pseudorabies Free State (Stage V) in 2001, the highest rating in an international five-tier ranking system for pseudorabies. In the US, four states remain in Stage IV where surveillance is heightened although no infection exists. Testing is still required for some classes of pigs moving interstate to California from a Stage IV state.

Existing Departmental regulations for the importation of swine from other states of the United States (US) do not adequately protect California livestock from the importation of pseudorabies and brucellosis infected swine. Therefore, there is a need to repeal and amend the outdated requirements and replace them with current requirements for consistency and compliance with standards established by the USDA and consistency with the Department's other disease control and eradication programs (i.e., scrapie control and eradication program, bovine tuberculosis).

This proposal strengthens the state's importation requirements for swine entering California from another state, updates the requirements for moving swine into a designated swine feedyard, and creates a interstate permitting system for slaughter plants importing swine for immediate slaughter with regard to pseudorabies and swine brucellosis. In an effort to control and eventually eradicate these livestock diseases, the Department proposes the following changes to implement federal requirements and to protect California's human and animal populations against devastating diseases:

**1) Amend heading of Article 8 to read: Swine Disease Programs.**

The Department is amending the heading of Article 8 to clarify that the section pertains to the requirements for swine disease programs, as opposed to proposed Article 8.5 stating the requirements for the movement of swine into California from other states. The Department believes changing the article heading as proposed better reflects the contents of the article, making it easier for the public to locate the necessary information for swine disease program work.

**2) Repeal sections 795.10, 795.13, 795.14, 795.16, 795.17, 795.19, 795.30, 795.32, 795.33, and 795.50 under Article 8.**

These sections are repealed as they contain outdated information. They are replaced with new sections 796 through 796.9 as described below.

#### **4) Adopt new Article 8.5. - Interstate and Intrastate Movement of Swine.**

The Department is grouping the requirements for swine imported into California from other US states under new Article 8.5. This article addresses the requirements for swine brucellosis and pseudorabies including livestock entry permits, test requirements and related information necessary to monitor shipments of swine, assure compliance, and locate exposed or infected swine in an effort to decrease the probability that infected swine will be imported into California. These requirements are updated to reflect current federal importation requirements and strengthened importation requirements for animals originating from states determined to be a threat for having disease.

#### **5) Adopt sections 796 through 796.9 under Article 8.5 – Interstate and Intrastate Movement of Swine.**

**Section 796. (Definitions)** specifies the terms and definitions as used in this section, which are needed for clarity purposes. The terms defined in this section comply with livestock industry standards, are specific to animal health, and are consistent with both Departmental regulations and federal regulations for the eradication and control of livestock diseases.

The Department is incorporating by reference some sections of the Code of Federal Regulations (CFR). The Department is making reference to such law, as it is necessary to inform those importing swine into California from other US states that the federal requirements for interstate commerce must also be met. The CFR is not included in the regulation as it is cumbersome and a potentially voluminous document subject to change. The CFR is readily available to the public via the Internet, public or college libraries, or by contacting the USDA directly.

**Section 796.1 (General Requirements) subsection (a)** references Food and Agricultural Code section 9562, which authorizes the State Veterinarian to establish a quarantine when any provision of this article has not been met, or if the entry requirements are amended. Under the authority to order a quarantine, the State Veterinarian may order animals held on the premises where found, move the animals as directed, stop the importation of animals, or to segregate, isolate, treat or destroy animals should a sudden disease risk develop in California or another state. When persons contact the Department to request a livestock entry permit, they will be informed of any changes to the entry requirements. Historically, the Department has not been able to make changes to pre-entry testing and movement requirements without filing an emergency regulation or ordering a quarantine of all animals from the state in question. The preparation and submittal of an emergency regulation is time consuming, in addition to the 10-day waiting period for notification of approval, which will significantly delay any Departmental action to prevent an infected animal from entering California.

**Section 796.1(b)** informs the public that even though animals meet the importation requirements as specified in this article, a disease or condition in another state or country might be reflected in other entry requirements as specified in other applicable statutes or regulations, state or federal. Additionally, regulations in this section may be in addition to federal rules for the importation of swine, which may be necessary if California regulations

are more restrictive than federal regulations as determined by the State Veterinarian to prevent diseases from entering California and potentially endangering human health and safety and the state's agricultural industry.

**Section 796.1(c)** requires that persons bringing animals into California have available and produce transportation records, if requested. A "load" is considered a part of a "shipment" and a shipment may be made up of only one load or several loads. This section is needed as the documents show that the animals have met the requirements for bringing animals into the state. Also, Certificates of Veterinary Inspection or other official documentation must accompany each shipment of animals so officials can inspect documents and/or animals moving within California to ensure compliance with state or federal regulations designed to prevent disease exposure or the spread of disease.

**Section 796.2 (Certificate of Veterinary Inspection) subsection (a)** defines what a Certificate of Veterinary Inspection is and how it is used.

**Section 796.2(b)(1) through (8)** lists the minimum requirements for the Certificate of Veterinary Inspection. This certificate is the primary document necessary to describe and identify the animals in the shipment and their associated test results. However, the Department is not including the actual certificate in this regulation, nor providing a form or document number as Certificates of Veterinary Inspection, or similar animal health certificates, vary throughout the US. California has no control over the arrangement or the exact content of this document because it is a document designed and utilized by each state of the US. Each states' Certificate of Veterinary Inspection is similar containing most of the same basic information, but there is no universal format for this document for the country.

**Sections 796.2(c) and (d)** specifies that a copy of the Certificate of Veterinary Inspection is to be mailed to the Department within 15 days and requires the veterinarian examining the animals and issuing the certificate to indicate that the animals meet California entry requirements. This is needed to reinforce the responsibility of the accredited veterinarian examining the animals in the shipment to ensure they comply with California requirements, and to notify the Department that the animals are entering the state by submitting the Certificate of Veterinary Inspection. The 15 day time period for mailing the Certificate of Veterinary Inspection to the Department is necessary to ensure all state entry requirements have been met, to provide livestock importation statistics to the Department, and a means of tracing animals and contacting owners of animals should a disease outbreak occur.

**Section 796.2(e)** provides for the veterinarian certifying the animals that all required documentation and a separate recording of the official individual identification of each animal may be attached instead of listing it directly on the Certificate of Veterinary Inspection. This requirement is needed to allow flexibility when completing the Certificate of Veterinary Inspection for animals entering California. There is no need to transfer potentially voluminous information onto the certificate when they may attach all official documentation required under this article.

**Subsection 796.2(f)** provides that the Department may require a Certificate of Veterinary Inspection for other diseases of animals. This is necessary as a potentially harmful disease outbreak could occur at any time in another state that could cause harm to the citizens and the agricultural industry of California. Additionally, even though persons comply with this proposal, it is the responsibility of the person in possession of the livestock to ensure all other statutes or regulations relative to other identified diseases have been followed before entering California, or moving livestock within the state.

**Section 796.2(g)** states that the animals must be transported directly to the destination stated on the Certificate of Veterinary Inspection. This requirement is needed so that state or federal officials can locate arriving animals should an examination be necessary in the event of a disease outbreak in this state or in the state that the animals departed from. It is important that the public be aware that animals cannot be diverted to another location for the health of their animals and the health of any other animals that they may come into contact with.

**Section 796.2(h)** explains that a Certificate of Veterinary Inspection is valid for 30 days. After the Certificate of Veterinary Inspection expires, the person importing the animals will need to obtain another Certificate of Veterinary Inspection from an accredited veterinarian in the state of origin. This time period is in most states the standard, however some states allow longer periods of time for specific species. For example, the owners of horses can obtain a Certificate of Veterinary Inspection for a six-month period, as that is often the extent of the horse show season. This would necessitate the owner to only obtain one permit for the horse show season as opposed to a new one every 30 days. The Department, however has determined that, because of an increased potential for the introduction of diseases into California, the Certificate of Veterinary Inspection must be issued within the last 30 days of entry into the state. This will ensure that the animals in the shipment are healthy, as they have been inspected by an accredited veterinarian at least within the last 30 days prior to entering the state.

**Sections 796.3 (Interstate Livestock Entry Permit) subsections (a) and (b)** informs the public that an Interstate Livestock Entry Permit may be required if by regulation it is required for the importation of animals into California, and defines what an Interstate Livestock Entry Permit is and how it is used. Some classes of animals may not require a permit because of their low-risk for having disease. This section explains what information will be required when the public requests a permit from the Department.

**Section 796.3(c)** specifies that the Department's Animal Health Branch is the only one place where an entry permit can be obtained for domestic livestock entering the state. Most requests for entry permits are applied for by telephone, however, the Animal Health Branch accepts requests for permits by other electronic means as specified. The Department is not including a copy of the actual permit in its regulations, as it is an internal computerized tracking document used by the Department. The applicant for the permit to transport livestock may request a copy of the permit from the Department, however, that rarely happens as all the applicant needs is the permit number for entry into the state. They do not need to provide a copy of the permit itself to state or federal inspectors (when requested) but the number of the permit is to be included on the Certificate of Veterinary Inspection. Also, all states have their own version of a livestock entry permit and there is

not one uniform permit for the United States. Therefore, the necessary information the applicant needs to supply to the Department is listed in subsection (f), and the permit number is normally issued by telephone or other electronic means.

This section also clarifies that an entry permit number, when required, must be obtained prior to the animals arriving into California. It is necessary to include this requirement because importers will bring animals into the state without first notifying the Department as required by this section. Animals may not meet California's entry requirements yet they have already arrived. If the animals were diseased, it would be too late to prevent any possible spread of disease.

**Section 796.3(d)** specifies that a unique permit number, indicating approval of the application, is usually issued immediately over the telephone after information is gathered. A unique number is necessary for the Animal Health Branch's computerized permitting system, which allows for the collecting of data on livestock movements and for the tracking of animals in the event of a disease outbreak.

**Section 796.3(e)** requires the applicant for the permit to enter California to establish that all animals in the shipment meet California entry requirements and possess a Certificate of Veterinary Inspection when required. When the applicant contacts the Department to obtain the permit number, Departmental staff verify that the animals are in compliance with California's entry requirements for the type and purpose of animal being imported, and that the importer possesses a Certificate of Veterinary Inspection when required.

**Section 796.3(f)** defines the basic information the applicant needs to supply to the Department so that the permit number may be issued.

**Section 796.3(g)** requires that each shipment, which may consist of one or more loads, have a separate entry permit number. A shipment is a group of animals that have the same origin and destination. For some importers of livestock, the number of animals in one shipment may be so great that they may not all fit into one transportation vehicle making it necessary to split the shipment into separate truckloads. To better keep track of animals represented on the required documentation, and to ease the burden on the owner shipping a large number of animals, the Department requires that the entire shipment of animals, which may consist of one or more truckloads, have the same permit number.

**Section 796.3(h)** states that the animals must be transported directly to the destination indicated because the Department has to be able to locate arriving animals should an examination be necessary. Therefore, the public should be informed that the animals are not to be diverted to another location, but taken directly to the destination indicated.

**Section 796.3(i)** specifies that the State Veterinarian may deny the request for an entry permit number if there is a serious threat to the public or animal health in this state by importing animals from another state or country. To preserve the public and livestock health, the State Veterinarian is authorized by Food and Agricultural Codes sections 9562 and 9570 to take this action by limiting or restricting the movement of animals into California.

**Section 796.3(j)** specifies that Interstate Livestock Entry Permits shall expire 15 days after issuance by the Department. The Department has determined that a 15-day expiration is needed to prevent long periods of time to pass between the issuance of the permit and the arrival of the animals. During this time, animals may become exposed to disease or disease status may change. Additionally, Departmental personnel wait for the arrival of these animals for inspection purposes. Therefore, it is necessary that animals depart and arrive in a timely manner from the date the Department has approved their entry into the state.

**Section 796.4 (Pseudorabies – Movement of Swine into California for Purposes Other Than Slaughter) subsection (a)** specifies that swine used for purposes other than slaughter (e.g., show, exhibition, breeding), regardless of the state of origin, must comply with the most stringent movement requirements applicable to any other swine in the shipment. This statement is necessary to prevent swine originating from a heavily disease infected state from entering California by meeting only the minimum requirements of swine originating from a state free of disease. It is customary for a shipment of swine leaving one state to make additions to the load en route to California. If the originating state is a disease free state and the last state where animals are added to the shipment is an infected state, all the swine in the shipment must comply with the entry requirements for the swine originating from the infected state. At the time the animals are commingled on the transportation vehicle, the potential for spreading disease exists. All animals are then considered a disease treat and should be held to the most stringent entry requirements. Therefore, the Department believes this statement is necessary to prevent any potentially infected animals from entering the state.

**Section 796.4(b)(1) and (2)** specify the requirements for the interstate movement of any type of swine, except for slaughter swine, originating from other US states and entering California. The Certificate of Veterinary Inspection as described in proposed section 796.2 assures the health of livestock, states their origin, and where the animals are going. It is also a means of recording any test results that may be required prior to entry. Official individual identification means that each animal has a permanent, unique mark or device that identifies each animal, for example tattoos or eartags. Forms of identification may be used to match negative test results of animals in transit with the animals represented on the Certificate of Veterinary Inspection. Identification also allows officials to trace or track animals suspected of being a source or vector of infection which is necessary to control and monitor for livestock diseases in the state.

**Section 796.4(b)(3)** The Interstate Livestock Entry Permit as described in proposed section 796.3 is the Department's authorization for animals to enter California. It is also used to trace or track the movements of animals suspected of spreading or carrying disease. The use of these two documents is common practices within the industry.

**Section 796.4(b)(4)** specifies that a negative pseudorabies test conducted within 30 days prior to entry is required for swine entering California. Negative test results are necessary to verify that animals are not infected carriers of disease. The 30-day testing requirement is an industry standard, as it has proven to be the time period most accurate for demonstrating that an animal is either negative or positive for having pseudorabies.

Additionally, if a retest of the animal is required after arriving in California, there would be adequate time for any exposure to disease to show up on a test.

This section also states that the person receiving the animals in California must have documentation issued at the point of origin showing that each animal tested negative to the required pre-entry pseudorabies test. Often test results are recorded on the Certificate of Veterinary Inspection, however some states may use an official form specifically for recording pseudorabies or other disease test results. It is necessary for the receiver of the swine to have this documentation to ensure the animals arriving are the animals indicated as being negative to the pseudorabies test to prevent the introduction or spread of disease.

**Section 796.4(c)** specifies that swine meeting California entry requirements for pseudorabies will be quarantined and isolated at the California destination. These animals shall be retested for pseudorabies within the specified time frame of 30-60 days after entering the state. It is necessary to quarantine the animals to assure they do not come into contact with other animals and is a means of knowing where the animals are located until they meet the additional retest requirements as stated. Retesting the animals 30-60 days after arriving is the industry standard and necessary to monitor the disease status of the imported animals. Pseudorabies is a disease that may not be detected on the initial test required for entry into California, yet the animal may still be infected, or the animal may have been exposed to the disease after the pre-entry test. Therefore, retesting animals 30-60 days after they arrive in California is enough time for an exposure to disease to show up on a test.

Subsection 796.4(c)(1) states to the public conditions that must be met for the animals to be released from quarantine. When a retest reveals a negative test result or the animals are slaughtered, the release of quarantine will be issued.

**Section 796.4(d)(1)** provides an exemption for certain categories of swine from the pre-entry test, quarantine and isolation, and the retest requirements. The Department has determined that animals coming from Stage IV or V states and animals that have been vaccinated for pseudorabies pose the least risk for importing infected animals to California and therefore should be exempt from the requirements of this section.

**Section 796.4(e)** informs the public that additional testing may be required. It is necessary to include this requirement because in rare occurrences an infected animal may be discovered, and warrant further testing, beyond the required pre-entry and retest requirements. This section allows the Department the flexibility to test animals that may pose a risk to California's swine population.

**Section 796.5 (Swine Brucellosis – Movement of Swine into California for Purposes Other Than Slaughter) subsection (a)** specifies that swine used for purposes other than slaughter (e.g., show, exhibition, breeding), regardless of the state of origin, must comply with the most stringent movement requirements applicable to any other swine in the shipment. This statement is necessary to prevent swine originating from a heavily disease infected state from entering California by meeting only the minimum requirements of swine originating from a state free of disease. It is customary for a shipment of swine leaving

one state to make additions to the load en route to California. If the originating state is a disease free state and the last state where animals are added to the shipment is an infected state, all the swine in the shipment must comply with the entry requirements for the swine originating from the infected state. At the time the animals are commingled on the transportation vehicle, the potential for spreading disease exists. All animals are then considered a disease treat and should be held to the most stringent entry requirements. Therefore, the Department believes this statement is necessary to prevent any potentially infected animals from entering the state.

**Section 796.5(b)(1) and (2)** specify the requirements for the interstate movement of any type of swine, except for slaughter swine, originating from other US states and entering California. The Certificate of Veterinary Inspection as described in proposed section 796.2 assures the health of livestock, states their origin, and where the animals are going. It is also a means of recording any test results that may be required prior to entry. The Interstate Livestock Entry Permit as described in proposed section 796.3 is the Department's authorization for animals to enter California. It is also used to trace or track the movements of animals suspected of spreading or carrying disease. The use of these two documents are common practices within the industry.

**Section 796.5(b)(3)** states that the animals shall have official individual identification. Official individual identification means that each animal has a permanent, unique mark or device that identifies each animal, for example tattoos or ear tags. Forms of identification may be used to match negative test results of animals in transit with the animals represented on the Certificate of Veterinary Inspection. Identification also allows officials to trace or track animals suspected of being a source or vector of infection which is necessary to control and monitor for livestock diseases in the state.

**Section 796.5(b)(4)** specifies that a negative brucellosis test conducted within 30 days prior to entry for sexually intact swine over four months of age is required for swine entering California. The age limit of four months is considered an industry standard, as it is the time when animals are weaned and exposed to other swine, and therefore susceptible for having and spreading disease. Negative test results are necessary to verify that animals are not infected carriers of disease. The 30-day testing requirement is an industry standard, as it has proven to be the time period most accurate for demonstrating that an animal is either negative or positive for having brucellosis. Additionally, if a retest of the animal is required after arriving in California, there would be adequate time for any exposure to disease to show up on a test.

This section also states that the person receiving the animals in California must have documentation issued at the point of origin showing that each animal tested negative to the required pre-entry brucellosis test. Often test results are recorded on the Certificate of Veterinary Inspection, however some states may use an official form specifically for recording brucellosis or other disease test results. It is necessary for the receiver of the swine to have this documentation to ensure the animals arriving are the animals indicated as being negative to the brucellosis test to prevent the introduction or spread of disease.

**Section 796.5(c)** specifies that swine meeting California entry requirements for brucellosis will be quarantined and isolated at the California destination. These animals shall be retested for brucellosis pseudorabies within the specified time frame of 30-60 days after entering the state. It is necessary to quarantine the animals to assure they do not come into contact with other animals and is a means of knowing where the animals are located until they meet the additional retest requirements as stated. Retesting the animals 30-60 days after arriving is the industry standard and necessary to monitor the disease status of the imported animals. Brucellosis is a disease that may not be detected on the initial test required for entry into California, yet the animal may still be infected, or the animal may have been exposed to the disease after the pre-entry test. Therefore, retesting animals 30-60 days after they arrive in California is enough time for an exposure to disease to show up on a test.

Subsection 796.5(c)(1) states to the public conditions that must be met for the animals to be released from quarantine. When a retest reveals a negative test result or the animals are slaughtered, the release of quarantine will be issued.

**Section 796.5(d)(1)** exempts certain categories of swine from the pre-entry test, quarantine and isolation, and the retest requirements. The Department has determined that animals coming from a validated brucellosis-free herd or validated brucellosis-free state classified by the USDA, and not exposed to or commingled with animals coming from a state that is not classified as free from swine brucellosis by the USDA pose the least risk for importing infected animals to California and therefore should be exempt from the requirements of this section.

**Section 796.5(e)** informs the public that additional testing may be required. It is necessary to include this requirement because in rare occurrences an infected animal may be discovered, and warrant further testing, beyond the required pre-entry and retest requirements. This section allows the Department the flexibility to test animals that may pose a risk to California's swine population.

**Section 796.6 (Movement of Swine into California for Immediate Slaughter) subsection (a)** states that swine imported into California will be considered slaughter swine if they are imported with slaughter swine. This subsection is necessary to prevent the possibility of the spread of disease. Because slaughter swine do not require a negative test prior to entry, their disease status is unknown. If these animals were harboring infection and came into contact with any other swine, they could spread infection. Therefore, the Department believes it is necessary to consider any swine moved into the state with slaughter swine as swine for immediate slaughter (within 14 days of importation). These potentially infected swine will only be allowed to move to approved slaughter facilities without coming into contact with California's breeding swine populations.

**Section 796.6(b)(1) and (2)** specifies that swine imported for immediate slaughter shall have an Interstate Livestock Entry Permit and official individual identification. The Interstate Livestock Entry Permit as described in proposed section 796.3 is the Department's authorization for animals to enter California. It is also used to trace or track the movements of animals suspected of spreading or carrying disease. The use of this

document is a common practice within the industry. Swine kept as a group are exempted from the official individual identification requirement in accordance with the identification of swine in interstate commerce as stated in 9 CFR Part 71.19 (1/1/02 Edition).

**Section 796.6(b)(3) and (4)** directs slaughter swine to slaughter facilities within 24 hours after arriving in California without a diversion, and requires that swine be slaughtered within 14 days. The Department finds it necessary to place these restrictions on swine entering the state to prevent the possibility of these potentially infected animals from coming into contact with California's breeding swine populations. The 24-hour time limit for unloading at a slaughter facility has been determined to be a reasonable amount time for a load of swine to reach the designated slaughter facility after entering California. The phrase "without diversion" is necessary to prevent any additional stops where some animals could be unloaded. The requirement to slaughter the animals within 14 days after arriving in California is necessary to ensure that in fact the animals are slaughtered; 14 days is a reasonable amount of time to allow the slaughter facility to accomplish this.

**Section 796.6(c)(1) through (4)** prohibits the movement of any live swine from the slaughter facility except with an exemption from the State Veterinarian, and specifies the information to be provided when requesting this exemption. Restricting the movement of live animals from a slaughter facility lessens the possibility that infected animals may come into contact with non-slaughter animals. The Department is specifying "live animals" because some slaughter facilities sell pork to the public (i.e. for whole roasting pigs). The information required when an exemption to remove a live animal from the slaughter facility will be used to determine if the animal is healthy and at low risk for having disease, locate the animal in the event of disease outbreak, and any special circumstance that necessitates the animal's removal from the facility. When this information is received in writing, the State Veterinarian shall make a determination and notify the requestor.

**Section 796.7 (Annual Import Permit for Slaughter Plants) subsection (a)** explains that an annual interstate livestock entry permit may be issued to the owner or manager of a California slaughter should they choose to apply. The Department does not anticipate slaughter plants importing a low volume of animals to request annual import permits, however there are several high volume slaughter plants that would benefit from this arrangement. Smaller slaughter plants may still request regular import permits as described in Section 796.6.

The Department has observed that slaughter plants regularly importing large numbers of swine for immediate slaughter contact the Department in some instances several times a day for importation permits. These routine telephone calls are burdensome to the importer since the managers and/or owners of these slaughter plants already know and understand California laws and regulations pertaining to the importation of slaughter swine. To accommodate these slaughter plants the Department is proposing an annual permitting mechanism whereby the Department may grant to the slaughter plant an import permit good for one year when the slaughter plant enters into an agreement with the Department. The agreement would contain specific actions and conditions that the slaughter plant must follow in order to maintain the annual import permit.

The Department has determined that owner or operator of a slaughter facility must notify the Department at least 15 days before the first expected entry of swine into the state or the expiration of a prior annual entry permit in order for the Department to have adequate time to review the importation record status and history of the slaughter facility and to communicate back to the facility the status of their application.

**Section 796.7(b)** describes the application process for slaughter plants to apply for the annual import permit should they choose, at least 15 days before the first expected entry. Approval for the annual import permit may be granted when the Department receives a completed application whereby the applicant agrees to comply with the terms and conditions specified on the application. The slaughter plant may use their own application form, or may contact the Department for a form. However, no specific format is required or needed, therefore, no form name or number is referenced in this proposal. This proposal designates the information the Department needs to approve the annual import permit.

**Section 796.7(c)(1) through (4)** describe the application process for obtaining the annual import permit for slaughter swine and the basic information required on the application. By signature on the application, the applicant is agreeing to comply with the specified requirements that the Department has identified as being the minimum standards for maintaining the annual import permit.

Subsection (c)(4)(A) specifies that the importing slaughter plant must provide the entry permit number to the shipper prior to the shipment of each load of animals. The requirement for shipper of each load of animals to have in their possession a permit number is a basic requirement for importing animals into California, showing that the animals have met the requirements for bringing animals into the state. This requirement is further supported in 796.1(c).

Subsections (c)(4)(B), (C), (D), and (E) are the standard requirements for importing slaughter swine into the state as specified and explained in section 796.6 above and in accordance with the identification of swine in interstate commerce as stated in 9 CFR Part 71.19 (1/1/02 Edition).

Subsections (c)(4)(F)(i) and (ii) require that the slaughter plants maintain records pertaining to any swine entering or, live swine or carcass leaving the slaughter facility for two years and that those records be made available to the Department or USDA. It is important for the Department to have access to records for tracing the origin or exposure to other animals and any possible spread of disease. Reviewing records of animal movements has proven to be an invaluable tool for Department inspectors when tracking the origin of a disease outbreak. The records required are considered standard movement documents, which may be required for the movement of these animals into and out of the slaughter facility or to document slaughter. This section ensures that the slaughter facility will maintain these records for two years.

**Section 796.7(d)(1) through (3)** describes that slaughter plants importing swine into California under the annual import permit agreement may renew the permit after the expiration of a 12-month period and when the Department determines that the conditions specified in the agreement continue to be met. Because diseases can spread so easily,

the Department believes that it is necessary to review whether or not the slaughter plant continues to operate in a manner that the Department has determined to be the best means of preventing the spread of the disease. If the Department determines the slaughter plant is in compliance, the slaughter plant may then renew the annual import permit for another 12-month period. This subsection also specifies the conditions that would result in the termination of the annual import permit. It is important to make the owners or managers of the slaughter plant aware of how this agreement may be nullified.

**Section 796.7(e)** specifies that the Department or USDA may inspect swine imported into California by a slaughter plant choosing to use an annual import permit. Immediate slaughter swine may need testing to monitor the progression or extent of disease; therefore the Department must have access to these animals.

**Section 796.7(f)** reserves the right of the State Veterinarian to make changes to the requirements for issuing the annual import permit to slaughter plants as a result of a change in disease status. A change in disease status may be the result of newly discovered infection, scientific information, or some procedure determined to affect the proposed operation or security of slaughter plants receiving immediate slaughter swine. Therefore, to assure the health and safety of the public and livestock in California, the Department believes it is necessary to be able to immediately communicate to the owners or managers of slaughter plants the need for any change in its approval status.

**Section 796.8 (Designated Swine Feedyard)** the Department is choosing to repeal section 795.50 as previously stated, however, the repealed section and this proposed section require essentially the same restrictions to persons importing swine to designated swine feedyards. Minor changes to the proposed section include renumbering, changing the reference of “Director” to “State Veterinarian”, and other nonsubstantive changes for consistency and organizational purposes.

**Section 796.8(a)(1) through (3)** requires records to be maintained pursuant to 9 CFR 71.19(e)(2), and that a log be maintained of the shipment of animals on and off the feedyard premises. This is necessary so the Department may track the animals should a disease outbreak occur. This section also requires persons owning or operating a designated swine feedyard to post a sign indicating the animals that are destined for slaughter, as they may not be sold for any other purpose. This requirement will prevent the spread of disease, as slaughter swine do not require a negative test for diseases.

Section 796.8(a)(4), and (4)(A) and (B) exempts the movement of live swine from the designated swine feedyard. These animals must have been included in the negative testing of all the swine on the premises conducted 30 days “after” rather than “prior” to the introduction of new swine onto the premises. The Department has determined this change is a more appropriate means of detecting the disease status of the animals on the feedyard as well as the disease status of live animals leaving the feedyard. The blood test of an animal recently exposed to disease may not reveal that the animal is affected (positive); a certain amount of time, usually 30 days, must pass before the blood test will yield a positive result. Therefore, the 30-day period reflects current disease diagnostic techniques to prevent the potential for the introduction and spread of disease. Subsection

(a)(4)(B) also is necessary to clarify that the testing of all animals is required 30 days after the introduction of any new swine.

**Section 796.9 (Violations) subsections (a) and (b)** specify the violations for any person that fails to comply with the requirements of this article relating to the importation livestock. The Department has the authority to pursue prosecution for any violation of this proposal pursuant to Food and Agricultural Code section 9574. The Department has determined that controlling existing disease and preventing the introduction of animals that may already be affected with a disease are efforts necessary for the protection of California's livestock industries. Should individuals violate regulations established by this proposal, thus putting California's livestock industries at great risk, the Department should be able to seek prosecution. Therefore, the Department believes a section explaining the available remedies for violation of this article is necessary.

### **Underlying Data**

None

### **Business Impact**

This proposed regulation will not have significant adverse economic impact on businesses. The only anticipated costs may occur with the record keeping requirements of slaughter facilities choosing to import swine using the Department's annual import permit. This proposal is intended to benefit the public to control or prevent specified livestock diseases that may be transmitted to humans. It also benefits the livestock industry by promoting healthy livestock thereby making California beef and dairy products marketable, which will contribute to the economic growth of the state.

### **Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment; however, the livestock industry or veterinary medical practices may require specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Department of Food and Agriculture would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.